

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

VICKIE E. JOYCE ,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:06CV27
	)	
MICHAEL J. ASTRUE, <sup>1</sup>	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

ORDER

On May 21, 2007, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed and served on the parties in this action. Within the time limitation set forth in the statute, Defendant filed objections to the Magistrate Judge's Recommendation. The Court's de novo determination is in accord with the Magistrate Judge's report, and the Magistrate Judge's Recommendation is adopted.

Therefore, Plaintiff's motion for summary judgment [Doc. # 8] seeking a reversal of the Commissioner's decision is GRANTED, Defendant's motion for judgment on the pleadings [Doc. # 11] is DENIED, the Commissioner's decision is

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<sup>1</sup> Michael J. Astrue became the Commissioner of Social Security on February 12, 2007. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Michael J. Astrue should, therefore, be substituted for Commissioner Jo Anne B. Barnhart as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

REVERSED, and the case is REMANDED to the Commissioner under sentence four of 42 U.S.C § 405(g). Plaintiff's motion seeking an immediate award of benefits is DENIED.

This the 5<sup>th</sup> day of February, 2009.

/s/ N. Carlton Tilley, Jr.  
Senior United States District Judge